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**PAGE COUNTY BOARD OF SUPERVISORS**

**REGULAR MEETING-MINUTES**

**GENERAL DISTRICT COURTROOM**

**MARCH 12, 2002**

**MEMBERS PRESENT: Elaine Mayberry, Chair, District 2**

**Robert Good, Vice Chair, District 5**

**Nora Belle Comer, Supervisor, District 1**

**Allen Cubbage, Supervisor, District 3**

**Gerald Cubbage, Supervisor, District 4**

**ALSO PRESENT: C. Dean BeLer, County Administrator**

**William Aleshire, Deputy Co. Administrator for Development**

**Sheriff Presgraves**

**Bill Whittle, Extension Director**

**R.B. Drumheller, Luray McDonald's Owner**

**Steve Moyer, Forestry Department**

**Stewart Leeth, Esq. McGuire Woods**

**Courtney Rogers, Davenport & Company**

**Donna Hoke, Clerk**

**Call to order: 2:30 p.m.**

**Chair Mayberry called the meeting of March 12, 2002 to order, and proceeded with reciting the invocation. The pledge of Allegiance was given by Supervisor Good.**

### **Approval of Agenda:**

It was noted that Supervisors' Time would need to be added to the agenda.

### **MOTION:**

**Supervisor Allen Cubbage** moved to approve the agenda with the addition of Supervisors' Time.

**Supervisor Good seconded.** The motion was carried by a vote of 5-0.

**AYES:** Elaine Mayberry, Nora Belle Comer, Allen Cubbage, Gerald Cubbage, and Robert Good.

**NAYS:** None

### **County Administrator Comments:**

Mr. BeLer, County Administrator addressed the Board with numerous items to comment on. Items commented on are as follows:

- The office is working on FOIA number 67. Seven of these were in the month of March.
- Staff will be contacting the County Attorney in the future regarding information on FOIA's.
- Applications are still being received for the positions of Finance Officer, and Public Works Director.
- Ballard depositions will take place Monday March 18<sup>th</sup>.
- Unauthorized entry into the County Administration office.
- Doug Stanley (Warren Co.) contacted regarding waste.
- Letter from Doug Stanley asking for support regarding Overall Bridge Program.
- Securing the original DFA documents in a safe place.
- Retirement of Kenny Campbell as a County employee.
- Board has received an invitation from Delegate Louderback for the Page Co. Development meeting to be held on March 28<sup>th</sup> at Day's Inn at 10:30 a.m.
- Emergency Services Group will set a regular meeting to be held every two months.
- Letter received from Sheriff regarding trash.
- Information from the NACo conference has been shared with the School Board.

### **Procedure at sanitary landfill for truck inspection:**

Mr. Aleshire addressed the Board noting that letters were included in the agenda packet concerning the roadside litter. Letters were from Scott Sedwick, Bart Begley, and Sheriff Presgraves informing the County of additional steps that their staff were taking to help eliminate

the litter. When asked by Chair Mayberry if a letter had been prepared for the citizens regarding the litter, Sheriff Presgraves confirmed that Ms. Chris Anderson, Litter Coordinator was in the process of drafting a letter to be circulated.

**Emergency Procurement-County Office Building:** [\(attachment #1-resolution with attachments\)](#)

Mr. Aleshire discussed the attached letters provided in the agenda packet regarding the condition of the old office building. Letters from Baughan & Baukhages Architects stated that they had completed the design of additional shoring and the addressed modifications to the north wing of the building on the first floor. It was recommended that the second floor of the north wing remain vacant of all personnel at this time. Action will need to be taken, to repair of the building to allow for temporary placement of employees in the lower and upper floors of the north wing. This would include providing new roof framing, along with further wall and floor support. The cost for labor and material to perform the work is not to exceed \$52,396.00.

**MOTION:**

**Supervisor Good moved** to authorize emergency procurement repairs

of the County Office Building located at 101 South Court Street, Luray,

Virginia, effective March 12, 2002.

**Supervisor Allen Cubbage seconded.** The motion was carried by a vote

of 5-0.

**AYES:** Allen Cubbage, Gerald Cubbage, Nora Belle Comer,

Elaine Mayberry, Robert Good.

**NAYS:** None

**Spring cleanup** [\(attachment # 2-resolution\)](#)

Sheriff Presgraves addressed the Board bringing with him a proposed resolution from Ms. Anderson regarding the trash program. The Sheriff also informed the Board that Mr. Drumheller had requested a few minutes of the Board's time to voice his concerns and support.

Mr. Drumheller took the floor to offer his support in the help to keep the County clean, stating that the community has always concentrated on caring for their fellow man and the environment. Mr. Drumheller closed in offering his company's help and all of the Company's available resources.

## **MOTION**

**Supervisor Allen Cubbage moved to approve the resolution as amended, and to declare the week of April 7-13, 2002 as Page County Litter Clean-up Week.**

**Supervisor Good seconded. The motion was carried by a vote of 5-0.**

**AYES: Elaine Mayberry, Nora Belle Comer, Allen Cubbage,  
Robert Good, Gerald Cubbage.**

**NAYS: None**

### **Burning Ban:**

**Mr. Moyer opened by noting that he was from a state agency, which made it hard for the Forestry Department to enforce the burning laws. The Sheriff would be the one to enforce should the County have an ordinance. In closing, Mr. Moyer stated that it had been determined that the majority of the fires were due to arson, not debris burning, which makes it even harder to enforce.**

### **Water Conservation: ([attachment # 3 - resolution](#))**

**Mr. Bill Whittle addressed that Board stating that the County was under a severe drought, that actually is a continuation of the drought that started in 1998. The extremely low levels of ground water were of the utmost concern. Livestock water sources have become critically low as have the streams. As we get closer to the Spring months, trees leafing out will increase the demand on deeper moistures, causing the possibility of wells in the County going dry. Because of the critical situation, Mr. Whittle recommended that the Board consider declaring an emergency. Mr. Whittle closed by stating that, should the Board declare an emergency, he recommends they approve the resolution supplied to them.**

**Supervisor Good recommended that a document be sent out to the citizens asking them to conserve water. Staff was directed to draft a resolution to be sent to the paper stressing the need to conserve our water sources.**

## **MOTION:**

**Supervisor Comer moved to approve the resolution of drought relief**

**for County of Page Farmers.**

**Supervisor Allen Cubbage seconded. The motion was carried by a vote**

of 5-0.

**AYES:** Robert Good, Nora Belle Comer, Elaine Mayberry,  
Gerald Cubbage, and Allen Cubbage.

**NAYS:** None

**Closed session:** 3:15 p.m.

**MOTION:**

**Supervisor Comer moved** the Page County Board of Supervisors convene  
a closed meeting under the Virginia Freedom of Information Act in order  
to discuss legal matters.

**Supervisor Allen Cubbage seconded.** The motion was carried by a vote of  
5-0.

**AYES:** Allen Cubbage, Nora Belle Comer, Gerald Cubbage,  
Robert Good, and Elaine Mayberry.

**NAYS:** None

**Exit closed session:** 3:55 p.m.

**MOTION:**

**Supervisor Comer moved** the closed meeting be adjourned and the Page  
County Board of Supervisors convene again in open session.

**Supervisor Good seconded.** The motion was carried by a vote of 5-0.

**AYES:** Allen Cubbage, Nora Belle Comer, Gerald Cubbage,  
Robert Good, and Elaine Mayberry.

**NAYS:** None

**Certification of closed session:**

**"To the best of my knowledge (i) only public business matters lawfully exempted from open meeting requirements under Section 2.1-344 of the Code of Virginia, 1950, as amended, and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting."**

**MOTION: ComerSECOND: Good**

**The following resolution was adopted by the Page County Board of Supervisors following a closed meeting held March 12, 2002 on motion of Comer, seconded by Good and carried by the following vote:**

**AYE NAY ABSENT ABSTAIN**

**Nora Belle Comer X**

**Elaine Mayberry X**

**Gerald M. Cubbage X**

**Allen J. Cubbage X**

**Robert P. Good X**

**Action from closed session:**

**MOTION:**

**( [Attachment # 4- resolution](#) )**

**Supervisor Good moved to approve the resolution accepting, and**

**authorizing the Chairman to execute, settlement agreement and**

**release in the matter captioned Shelly L. Phillips, v. the Board of**

**Supervisors of Page County.**

**Supervisor Comer seconded. The motion was carried by a vote of 5-0.**

**AYES: Robert Good, Allen Cubbage, Gerald Cubbage,**

**Nora Belle Comer, and Elaine Mayberry.**

**NAYS: None**

**MOTION:**

**[\(attachment #5- resolution\)](#)**

**Supervisor Allen Cubbage moved to approve the resolution of Page County, Virginia, declaring its intention to reimburse itself from the proceeds of one or more tax-exempt financings for certain expenditures made and/or to be made in connection with the county's acquisition of real estate.**

**Supervisor Good seconded. The motion was carried by a vote of 5-0.**

**AYES: Elaine Mayberry, Nora Belle Comer, Allen Cubbage,  
Robert Good, and Gerald Cubbage.**

**NAYS: None**

**MOTION:**

**[\( attachment #6-resolution\)](#)**

**Supervisor Good moved to approve the resolution accepting, and authorizing the Chairman to execute, post occupancy agreement relating to the Bailey plaintiffs in the matter captioned Shelly L. Phillips, v. The Board of Supervisors of Page County.**

**Supervisor Comer seconded. The motion was carried by a vote of 5-0.**

**AYES: Robert Good, Nora Belle Comer, Elaine Mayberry,**

**Allen Cubbage, and Gerald Cubbage.**

**NAYS: None**

**MOTION:**

[\(attachment #7-resolution\)](#)

**Supervisor Comer moved to approve the resolution accepting conveyance of real estate to the County of Page.**

**Supervisor Good seconded. The motion was carried by a vote of 5-0.**

**AYES: Robert Good, Nora Belle Comer, Elaine Mayberry, Allen Cubbage, and Gerald Cubbage.**

**NAYS: None.**

**MOTION:**

**Supervisor Comer moved to authorize the transfer of the funds necessary to effect the purchase of the real estate pursuant the Phillips settlement agreement , to Rodger Smith's trust account, to be held in trust until to be disbursed pursuant to the terms of the settlement agreement.**

**Supervisor Good seconded. The motion was carried by a vote of 5-0.**

**AYES: Robert Good, Elaine Mayberry, Gerald Cubbage, Allen Cubbage, and Nora Belle Comer.**

**NAYS: None**

**Proclamation 2002 National County Government Week: [\(attachment #8-resolution\)](#)**

**The Chair asked the Supervisors to read over the resolution, and it was the consensus of the Board to approve the week of April 7-13, 2002 as National County Government Week.**



**MOTION:**

**Supervisor Allen Cubbage moved to adopt the proclamation for 2002**

**National County Government Week.**

**Supervisor Comer seconded. The motion was carried by a vote of 5-0.**

**AYES: Allen Cubbage, Gerald Cubbage, Nora Belle Comer,**

**Robert Good, and Elaine Mayberry.**

**NAYS: None.**

**Warrant List:**

**MOTION:**

**Supervisor Comer moved to approve accounts payable checks ranging**

**in numbers from 133988 through 134224, totaling \$448,239.87, payroll**

**checks ranging in numbers from 206419 through 206556, totaling**

**\$191,923.45 and Payroll Electronic Transfer (F.I.C.A., Medicare, and**

**Federal Withholding), totaling \$66,734.89, for a grand total of \$706,898.21.**

**Supervisor Allen Cubbage seconded. The motion was carried by a vote**

**of 5-0.**

**AYES: Allen Cubbage, Gerald Cubbage, Nora Belle Comer,**

**Elaine Mayberry, and Robert Good.**

**NAYS: None**

**Approval of minutes:**

**MOTION:**

**Supervisor Good moved to approve the minutes of December 11, 2001, January 15, 2002, January 29, 2002, February 4, 2002, and February 26, 2002 as amended.**

**Supervisor Allen Cubbage seconded. The motion was carried by a vote of 5-0.**

**AYES: Allen Cubbage, Gerald Cubbage, Robert Good,  
Nora Belle Comer, and Elaine Mayberry.**

**NAYS: None**

**Consent Agenda:**

*Report on Boards and Commissions*

*Authorization for a credit to Town of Stanley*

*Erroneous Assessments refunds*

*Approval of Financial Reports*

*Appointment of Planning Commission member*

**MOTION:**

**Supervisor Allen Cubbage moved to approve the consent agenda for the meeting of March 12, 2002.**

**Supervisor Gerald Cubbage seconded. The motion was carried by a vote of 5-0.**

**AYES: Gerald Cubbage, Allen Cubbage, Robert Good,  
Nora Belle Comer, and Elaine Mayberry.**

**NAYS: None**

**Amendment to National Government Week resolution:** [\(attachment #9-resolution\)](#)

**After discussion, it was the consensus of the Board to amend the resolution proclaiming April 7-13, 2002 National County Government Week.**

**MOTION:**

**Supervisor Good moved to amend the resolution to read Now, therefore,  
be it resolved that the Board of Supervisors hereby proclaim April 7-13, 2002 as  
National County Government Week.**

**Supervisor Allen Cubbage seconded. The motion was carried by a vote of 5-0.**

**AYES: Allen Cubbage, Robert Good, Nora Belle Comer,  
Gerald Cubbage, and Elaine Mayberry.**

**NAYS: None**

**New Business**

**Budget presentation:**

**The County Administrator addressed the members of the Board, presenting the recommended fiscal budget. Mr. BeLer noted that the budget being presented was a balanced budget with no tax increases. Special thanks were acknowledged by Mr. BeLer to C.R. Suddith, Jr., Brenda Hilliard, Geraldine Cubbage, Meredith Houff, Regina Miller, and Ben Endicott for their long hours of work in completing the recommended budget. Mr. BeLer concluded in also thanking the members of the Form Ten Committee for their help on the budget, and further explained certain changes in the appearance of the 2003 budget.**

**Chair Mayberry commended the staff on their work regarding the budget preparation, saying that she had numerous people acknowledging what a help it was to have a contact to go to with budget questions.**

**Financial presentation:**

**Mr. Courtney Rogers of Davenport addressed the Board supplying them with a financial report. After walking the Board through the report to explain the layout of figures, Mr. Rogers continued to answer questions from the Board. Final outcome of the presented report showed positive numbers of revenue for the future of the County.**

### **Board and Commissions:**

**After discussion, it was determined by the Board that more time would be needed to find a suitable person to appoint to the Shenandoah Valley Regional Planning Commission.**

**Supervisor Allen Cubbage brought to the Board's attention a letter from the Town of Stanley. The letter stated the Town's concern regarding Mr. Begley's refusal to lower the tipping fees for residential trash from December 15, 2001, which is the date the contract was signed, to January 31, 2002. The letter stated that the Town of Stanley was not made aware of the agreement until January 24, 2002 during a meeting held at Jordan Hollow Inn. After discussion, it was determined that Supervisors Allen Cubbage and Gerald Cubbage would set up a meeting with Mr. Begley to see if this matter could be cleared up.**

**Additional issues discussed under New Business were Land Use regarding taxes, cabins advertised on the Internet, and their business licenses, conflicting reports of Pilgrim Pride plant shutdown, restructuring payments for County decals, and conflicting dates of Economic Development conference, with the Work Force Investment meeting.**

**Recess for Dinner: 5:00 p.m.**

**Reconvene for evening meeting: 6:30 p.m.**

### **Citizens Comments:**

*Lee McWhorter-*

**Mr. McWhorter addressed the Board, stating he was a concerned citizen from District 3, and wanted to comment on trash. He voiced that Mr. Begley had made a statement that most of the trash was coming from pickup trucks. Mr. McWhorter said that he has video tapes of trash blowing off of trash trucks. Concluding his comments, Mr. McWhorter spoke of the Town of Hay Market not allowing Disney to build an attraction, and then compared it to Shenandoah if the racetrack did not meet approval.**

*Barbara Coulter-*

**Mrs. Coulter spoke in opposition to the racetrack. Mrs. Coulter said that the proposed amendments that have received recommended approval by the Planning Commission will affect the County as a whole in a very destructive way. Mrs. Coulter closed in providing the Board members with a handout, and asking that they do their own study on the racetrack before approving amendments to the ordinance.**

*Sam Holt-*

**Mr. Holt addressed the Board speaking on behalf of the proposed racetrack and zoning amendment. Mr. Holt voiced his opinion, stating that it would bring in more revenue for the County, along with supplying an attraction for the children and young adults of Page County to utilize as a form of recreation.**

*John Rogerson-*

**Mr. Rogerson spoke, claiming that there may have been some misunderstanding regarding the comment he made at last month's meeting. Mr. Rogerson wanted it to be made clear that it was not a threat to contact the Justice Department if his time was cut short in the future on citizen comments, but that it was a promise. Mr. Rogerson closed in saying that if a person should want to move from Fluvanna County to Luray, they would have to move West, not East towards Williamsburg.**

*Alan Eldridge-*

**Mr. Eldridge thanked the Board for giving Mr. Rogerson the extra three minutes for his citizen comment period. However, Mr. Eldridge noted, that he still had a problem with the way it was handled, saying that the three minutes were taken out of the citizens time, not the Boards time.**

**Mr. Eldridge asked that the County send the Town of Luray a letter, thanking them for cleaning up trash from County property. Mr. Eldridge closed in asking that certain documents that were held in the past, now be released, and that taxes be lowered, now that the landfill was bringing in revenue.**

*Bobby Dovel-*

**Mr. Dovel from District 4 addressed the Board stating that he is unclear as to what The County Administrator is doing for the money he is being paid, when the County has continued to pay thousands of dollars for consultants. These consultants are doing work that the County Administrator addressed on his resume as being experienced at when hired. Mr. Dovel closed in saying that he was requesting the amount that has been spent on temporary, part-time, and full-time consultants for work that the County Administrator was hired to do, or any employees that**

**have been hired to assist him.**

*Jeff Vaughn-*

**Mr. Vaughn addressed the Board concerning the proposed racetrack. Mr. Vaughn talked of the issue of noise decibel levels. He stated that it was apparent that there had been some confusion regarding the noise decibels at the Planning Commission meeting. Mr. Vaughn suggested that further study be done before the public hearing scheduled in April.**

*Ted Kelly-*

**Mr. Kelly offered comments in anticipation of the Board receiving recommendations of the recent Planning Commission's hearing on the ordinance to permit racetracks by Special Use Permit. Mr. Kelly said that if the Board accepts the Commission's recommendation, it will be accepting a Special Use Permit so broad in its definition that it would need careful consideration and full deliberation before taking final action. Mr. Kelly asked that the Board consider going back to the restrictions that the Planning Commission recommended for a racetrack, such as the noise level requirement of 65 decibels. Mr. Kelly concluded in saying that most people speaking in favor of the racetrack speak for Mr. Vaughn's character and business ability. People speaking in opposition speak against hazards of pollution, loss of lifestyle, and the questionable long term consequences of an ordinance change.**

*Natalie Zuckerman-*

**Mrs. Zuckerman spoke in opposition to changing the ordinance to allow for the racetrack. Mrs. Zuckerman asked that no matter how favorable things looked at the time, to please take another look. She stated that it would be going against the regulations of a Special Use Permit in all categories. Mrs. Zuckerman concluded in saying that she did not feel that the Planning Commission had done a thorough job on researching racetracks before recommending approval.**

**Supervisors' time:**

*Supervisor Comer-*

**Supervisor Comer said that she wished that the citizens that were presently at the meeting, had been to the meeting in the afternoon when the financial report was presented. She stated that the report certainly was encouraging for the County.**

*Supervisor Allen Cabbage-*

**Supervisor Cubbage wanted the issue of miscommunication of the Pilgrim's Pride plant shutdown addressed in some fashion. Supervisor Cubbage voiced his concerns as to how the County will be affected by the shutdown. Supervisor Cubbage would also like staff to be directed to invite the Editor of the Page News & Courier to a work session to answer questions regarding evidence to back up certain items that have been published in the paper.**

**Supervisor Comer directed that a resolution be drafted concerning Pilgrim's Pride shutdown, and the effect this will have on the County as a whole. Supervisor Comer further noted that she recommended the resolution be presented at a work session.**

*Chair Mayberry-*

**Chair Mayberry informed the Board and citizens that the Sheriff has made it very clear that should trash be thrown from a vehicle, that person's tag should be reported, and possible action taken.**

**Chair Mayberry noted that only five states fund education at the county level as Page does. Therefore, there is no policy coming from NACo for federal education legislation. Most states receive funding from the state or the School Board has taxing power. Chair Mayberry would like to recommend that the Board further discuss whether they want to recommend supporting taxing power by the School Board to Delegate Louderback.**

**Chair Mayberry brought to the Board a new subject of HIPAA, stating that it is an unfunded federal mandate. The purpose of HIPAA is to preserve privacy for the public, and all counties will need to address HIPAA issues. It was further noted that from her information, the County Administrator is the responsible party for implementing and enforcing HIPAA. A plan for HIPAA must be filed by October 1, 2002. Chair Mayberry requested that Supervisor Comer take this issue to the Planning District, asking that they hold a seminar on HIPAA. It may be possible for the Planning District to hire a privacy officer for the entire district who would be able to help with the training and enforcement of HIPAA. Chair Mayberry noted that she would like the work session in June to allow for discussion of HIPAA. Closing statements by Chair Mayberry included the good news that Fairfax County is considered a pilot jurisdiction for HIPAA, and has offered their help in the sharing of guidelines and necessary instructions on paperwork, which can be found on the NACo website.**

**County Attorney, Rodger Smith informed the Board that the scheduled depositions had been postponed until further notice.**

**Board Tracker:**

**No comments made.**

**Board Calendar:**

**No comments made.**

**Closed session: 7:05 p.m.**

**MOTION:**

**Supervisor Comer moved that the County of Page convene a closed meeting under the Virginia Freedom of Information Act in order to discuss personnel.**

**Supervisor Good seconded. The motion was carried by a vote of 5-0.**

**AYES: Allen Cubbage, Gerald Cubbage, Robert Good,  
Nora Belle Comer, and Elaine Mayberry.**

**NAYS: None**

**Exit closed session: 7:55 p.m.**

**MOTION:**

**Supervisor Comer moved the closed meeting be adjourned and the Page County Board of Supervisors convene again in open session.**

**Supervisor Allen Cubbage seconded. The motion was carried by a vote of 5-0.**

**AYES: Allen Cubbage, Gerald Cubbage, Nora Belle Comer,  
Elaine Mayberry, and Robert Good.**

**NAYS: None**

**Certification of closed session:**

**"To the best of my knowledge (i) only public business matters lawfully exempted from open meeting requirements under Section 2.1-344 of the Code of Virginia, 1950, as amended, and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting of march 12, 2002."**

**MOTION: Comer SECOND: Allen Cubbage**

**AYE NAY ABSENT ABSTAIN**



**Nora Belle Comer X**

**Elaine Mayberry X**

**Gerald M. Cubbage X**

**Allen J. Cubbage X**

**Robert P. Good X**

**Action from closed session:**

**There was no action from closed session.**

**Recess: The meeting was recessed to Thursday March 14<sup>th</sup> at 6:30 for the work session.**

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**CHAIR COUNTY ADMINISTRATOR**

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